

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

JAMES ANTONIO MOORE

PETITIONER

VERSUS

CIVIL ACTION NO. 5:06cv140-DCB-MTP

CONSTANCE REESE

RESPONDENT

ORDER

This matter is before the Court on the Petitioner's Motion to Reconsider Pursuant to Rule 60(a) & (b) of the FEDERAL RULES OF CIVIL PROCEDURE [7-1] requesting that this Court "immediately release him due to the attached judgment and order from the U.S. District Court for the Southern District of Alabama."

The Court may correct a clerical mistake pursuant to Rule 60(a) at any time. Having reviewed the motion [7-1], this Court does not find that there was a clerical error made in the opinion [5-1] and judgment [6-1] filed October 27, 2006.

A party seeking relief under Rule 60(b) must show: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud, . . . misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied . . .; or (6) any other reason justifying relief from the operation of the judgment. FED. R. CIV. P. 60(b). The petitioner does not assert any of the grounds required by Rule 60(b). The Court finds that the petitioner has failed to provide justification for altering the previous ruling of the Court. In fact, the petitioner is presenting new grounds for habeas relief, that his sentence is being incorrectly calculated, that he has completely served his sentence and that he should be

immediately released from custody, which were not presented in the original petition. Therefore, the petitioner's motion to reconsider will be denied.

The petitioner may file a new and separate petition for habeas relief pursuant to 28 U.S.C. § 2241 once he has exhausted his available remedies concerning the new issue presented in this motion to reconsider. It is, therefore,

ORDERED AND ADJUDGED that petitioner's motion to reconsider [7-1] is denied.

SO ORDERED, this the 30th day of April, 2007.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE